

**Notice of Allowability**

Application No.

10/080,522

Examiner

David J. Blanchard

Applicant(s)

KAUFMAN ET AL.

Art Unit

1643

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 08 August 2005.
2. ☒ The allowed claim(s) is/are 33 and 38-41 (renumbered as claims 1-5).
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some\* c) ☐ None of the:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date 2/25/02
- ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
- ☐ Notice of Informal Patent Application (PTO-152)
- ☒ Interview Summary (PTO-413), Paper No./Mail Date 10/13/05
- ☒ Examiner's Amendment/Comment
- ☐ Examiner's Statement of Reasons for Allowance
- ☐ Other \_\_\_\_\_

  
**LARRY R. HELMS, PH.D.**  
**SUPERVISORY PATENT EXAMINER**

### EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mary J. Wilson on 10/18/2005.

The claims have been amended as follows:

Claims 1-32 are cancelled.

33. (Currently Amended) An isolated antibody, or binding fragment thereof, specific for a protein, or portion thereof at least 5 amino acids, having the amino acid sequence set forth in SEQ ID NO:1 ~~or an amino acid sequence encoded by a nucleic acid sequence that hybridizes to the nucleic acid sequence set forth in SEQ ID NO:2 at 55°C, in 3 X saline/sodium citrate comprising 0.1% sodium dodecylsulfate and that remains hybridized when subjected to washing at 55°C with 1 X SSC comprising 0.1% SDS.~~

Claims 34-37 are cancelled.

38. (Currently Amended) An isolated antibody, or binding fragment thereof, specific for a ~~The antibody according to claim 33 wherein said protein has~~ having at least 240 consecutive amino acids of the amino acid sequence set forth in SEQ ID NO:1 ~~of at least 240 consecutive amino acids.~~

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39. (Previously Presented) The antibody according to claim 33 wherein said antibody is 7C3 (ATCC Accession No. HB-12238), or binding fragment thereof.

40. (Previously Presented) The antibody according to claim 33 wherein said antibody is a monoclonal antibody, or binding fragment thereof.

41. (Previously Presented) A kit comprising the antibody according to claim 33, or binding fragment thereof, disposed within a container means.

The specification has been amended as follows:

On the first line of the specification at page 1, the title "GENE PRODUCT OVER EXPRESSED IN CANCER CELLS" has been deleted and the title "ANTIBODIES TO THE K12 PROTEIN" has been added.

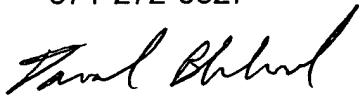
2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David J. Blanchard whose telephone number is (571) 272-0827. The examiner can normally be reached at Monday through Friday from 8:00 AM to 6:00 PM, with alternate Fridays off. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Larry Helms, can be reached at (571) 272-0832. The official fax number for the organization where this application or proceeding is assigned is 571-273-8300. Any inquiry of a general nature, matching or

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filed papers or relating to the status of this application or proceeding should be directed to Tony Parks for Art Unit 1643 whose telephone number is 571-272-0543.

Information regarding the status of an application may be obtained from the patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Respectfully,  
David J. Blanchard  
571-272-0827



LARRY R. HELMS, PH.D.  
SUPERVISORY PATENT EXAMINER